



City of Seattle

Gregory J. Nickels, Mayor

Department of Design, Construction and Land Use

D. M. Sugimura, Director

**CITY OF SEATTLE
ANALYSIS AND DECISION OF THE DIRECTOR
OF THE DEPARTMENT OF DESIGN, CONSTRUCTION AND LAND USE**

Application Number: 2301961

Applicant Name: Lydia Aldredge

Address of Proposal: 4451 1st Avenue NW

SUMMARY OF PROPOSED ACTION

Master Use Permit to establish use for future construction of a second story addition to existing single family residence.

The following approvals are required:

Variance to allow expansion of a non conforming structure.
(SMC Section 23.42.112)

Variance to allow portion of the principal structure to project into the required front yard. (SMC 23.44.014 A).

Variance to allow portion of the principal structure to project into the required side yard.
(SMC 23.44.014 C).

SEPA DETERMINATION: ☒ Exempt ☐ DNS ☐ MDNS ☐ EIS

☐ DNS with conditions

☐ DNS involving non-exempt grading or demolition or
involving another agency with jurisdiction.

BACKGROUND DATA

Site and Vicinity Description

The subject lot is approximately 2,772 square feet in area. The site is located on the northwesterly corner of the intersection of 1st Avenue NW and NW 45th Street. 1st Avenue NW is a paved residential street with curbs, gutters and sidewalks. The portion of NW 45th Street abutting the proposed site is undeveloped. The property is zoned Residential, Single-family 5000 (SF 5000) and is located in a mapped steep slope Environmentally Critical Area (ECA).

The site is developed with a one-story single-family residence (composed of a ground-floor daylight basement and a main floor above) constructed 3.19 feet from the front lot line, on the north side lot line, approximately 6.31 feet from the south side lot line, and 21.58 feet from the rear lot line. The existing front yard and north side yard are non-conforming to development standards for the SF 5000 zone.

The property slopes down from east to west, and most of the lot has been identified as a steep slope Environmentally Critical Area (ECA). The footprint of the existing house appears to be located on the flattest portion of the lot; the hill slopes steeply down from the structure's west façade.

The surrounding neighborhood is mixed between single-family and multi-family, but it is characterized largely by single family residences. The area is developed primarily with single and two-story single family residences in a mix of architectural styles. Properties immediately to the east, south and west are zoned Single-Family 5,000 (SF 5000) and developed with single family homes. The area to the north is zoned Multi-Family Residential Lowrise 3 (L-3).

Proposal Description

The applicant proposes to expand the existing structure by constructing a second story addition to match the existing building footprint and add to the rear of the property, fill portion of the main floor on the east façade, extend and replace the deck and add a landing area and stairs toward the east, and construct a new shed porch roof in the front yard along 1st Avenue NW. The additional second story would be a gain of 1,133 square feet of additional living space and is proposed to match the existing building foot print. The proposed deck addition would extend out from the main floor of the structure. The existing structure cannot meet the "certain additions" exception for yard requirement found in SMC 23.44.014-3a-b, because the existing wall is closer than 3 feet from the side lot line and only 3.19 feet from the front property line.

Public Comments

During the public comment period which ended May 21, 2003, the City received several letters concerning this application. The neighbors raised a number of concerns about the proposal. In general, the neighbors opposing to the project felt the lot size prohibits expansion in the manner that is being requested. They also felt any upward expansion would be overwhelming to the

adjacent buildings and the neighborhood. One concerned neighbor believes granting the requested variance will negatively affect her views and devalue her property.

One of these letters contained signatures from 23 neighbors opposing the proposed variance application. They believe in keeping the integrity of the neighborhood and by applying the required yard setbacks, it will protect the scale of housing in their area.

One comment letter was received in support of the proposed project. The neighbor stated that the neighbors who signed the petition were “gravely misinformed” by the originator of the petition.

ANALYSIS - VARIANCES

Pursuant to SMC 23.40.020 C, variances from the provisions or requirements of this Land Use Code shall be authorized when all the facts and conditions listed below are found to exist. Analysis of the variance requested follows each statement of the required facts and conditions.

- 1. Because of the unusual conditions applicable to the subject property, including size, shape, topography, location or surroundings, which were not created by the owner or applicant, the strict application of the Lands Use Code would deprive the property the rights and privileges enjoyed by other properties in the same zone or vicinity;***

The property is subject to unusual topography and is constricted by the nonconforming location of the existing structure. The current owner did not create these conditions which resulted prior to the current Land Use, Zoning and Building Code requirements. First, the subject site contains unusual topographic conditions. Most of the lot has been identified as a steep slope Environmentally Critical Area (ECA). The area of the lot outside of the steep slope is near the front and north side lot lines. The existing structure has been sited near the front lot line and north side lot line and away from the steep slope to the greatest extent possible. In addition, several of the lots in the vicinity contain steep slope areas as found on the subject site and do not provide the required yard setbacks. It appears having a nonconforming front yard setback is a typical historical development pattern for the homes on the same block face (1st Ave. NW).

The Land Use Code development standards for single family houses are based on a minimum lot size of 5,000 square feet. The project site has only 2,772 square feet of lot area and it is the smallest lot on the same block face. The development standards would deprive the subject site of expansion privileges enjoyed by other properties in the same zone.

- 2. The requested variance does not go beyond the minimum necessary to afford relief, and does not constitute a grant of special privilege inconsistent with the limitations upon other properties in the vicinity and zone in which the subject property is located;***

Granting a variance to allow the construction of a second story above the existing footprint would be consistent with the limitations upon other properties. The existing structure encroaches into the front yard and north side yard and approximately 1 foot of roof overhang projects onto

street right-of-way (NW 45th St.). The house to the immediate south is located approximately 3 feet from the front property line while the north is abutting portion of an undeveloped NW 45th Street. For the purpose of determining yards, a street could be treated as an alley. NW 45th Street meets all the criteria listed in SMC 23.40.030 except for one condition (SMC 23.40.030 B). If NW 45th Street could be treated as an alley, the proposed structure can be built up to the side street property line. To allow the upward expansion of a structure along the existing east façade line which is 3.19 feet from the property line abutting 1st Avenue NW would not significantly alter the existing streetscape and thus would not be a grant of special privilege or go beyond the minimum necessary to afford relief. It appears having a reduced front yard setback is a typical historical development pattern for the homes on the same block face. The required front yard is either the average of the front yards of the single-family structures on either side or twenty (20) feet, whichever is less. When there is no single-family structure within 100 feet of the side lot line, the yard depth used for averaging purposes shall be twenty (20) feet. There is no single family structure abutting the north side lot line, therefore the proposed site is subject to using twenty feet in the averaging calculation, and thus required to have a larger front yard setback. Due to the location of the existing house and the size and topography of the lot, an encroachment into the front and side yards are proposed for the construction of the addition, a right and privilege enjoyed by other properties in the area.

The applicant is requesting a variance to allow the expansion of a nonconforming structure. The vertical expansion would not increase the existing non-conforming front and side yards with the exception of the proposed rear deck expansion and stairs. This aspect of the proposal would horizontally expand the structure footprint into the side yard. The applicant proposes to add a floor to the existing structure and it will meet the maximum height limit for Single Family 5000 (SF 5000) zone. As proposed, the additions would increase the height, bulk, and scale of the structure in both the front and side yards.

Granting a variance to allow the construction of a new shed front porch roof to provide covered entry would be a grant of special privilege. Although there are a number of one and two story structures on lots with less than the minimum lot area in the vicinity, none of them have a shed porch roof protruding out towards the street or abutting the front property line. Allowing the applicant to construct a shed porch roof would be a grant of special privilege.

Permitting the expansion of the attached deck and landing area with stairs into the required side yard along NW 45th Street would be considered a grant of special privilege. SMC 23.44.014 D.4 allows for uncovered porches and steps to project into any required yard provided that they are no higher than 4 feet on average above existing grade, no closer than 3 feet to any side lot line, no wider than 6 feet and project no more than 6 feet into the required front or rear yard. The proposed stairs would be higher than 4 feet on average and will be abutting the north side lot line. The “certain additions” section of the code would allow the deck addition and stairs to be located 3 feet from the side property line.

3. ***The granting of the variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the zone or vicinity in which the subject property is located;***

The proposed second story addition over the existing footprint in the front and side yards will not be materially detrimental to the public or injurious to the property or improvements in the zone or vicinity. The increase in size and bulk of the structures will not exceed the height limit for the zone. The proposed addition will not be visible from north of the property because the property is abutting an undeveloped portion of NW 45th Street. This portion of NW 45th Street is vegetated with trees and shrubs. To allow the expansion of a structure along the existing façade line would not significantly alter the existing streetscape and thus would not be detrimental to the public welfare.

However, some of the aspects of the proposal could be detrimental to the public welfare. Increasing the bulk and scale of the existing structure directly adjacent the public sidewalk by permitting a shed porch roof, is not in the best interest of the public and would alter and negatively impact the streetscape.

4. *The literal interpretation and strict application of the applicable provisions or requirements of this Land Use Code would cause undue and unnecessary hardship or practical difficulties;*

The literal interpretation and strict application of the Land Use Code would require the applicant to construct an addition/remodel of the existing structure that conforms to the required front yard of 11.5 feet (SMC 23.86.010 B.1.e) and the required side yard of 3 feet (SMC 23.44.014 D.3.a). Strict application of the requirements of the Land Use Code would result in a significant reduction in the design, flexibility, size, and massing of the structure in addition to creating structural design challenges. Therefore literal interpretation of the requirements of the Land Use Code would result in undue hardship to the applicant for the proposed second floor addition.

However, this “practical difficulty” does not extend to the covered entry or deck addition and rear stairs. These features do not rely on the existing foundation for support and compliance with the code for these features does not constitute hardship on practical difficulty.

5. *The requested variance would be consistent with the spirit and purpose of the Land Use Code regulations for the area.*

The owners of the subject lot are seeking three variances that, if granted, would allow the expansion of a legal nonconforming single family home. The spirit and purpose of the Land Use Code identifies flexibility as an important directive to allow the residents of single-family residential areas maximum use and enjoyment of their homes. As proposed, this application has attributes that are within the spirit and purpose of the Land Use Code.

The Code contains many provisions aimed at encouraging the reuse and remodeling of existing single family structures. Allowing the vertical expansion of the existing structure along the present façade line and constructing a second-story addition over the existing footprint preserves the current character of the streetscape in terms of yards, while encouraging reuse of a single family building and thus is consistent with the spirit of the Land Use Code.

Permitting a variance to allow the applicant to construct a new 3.19 feet by 7 feet shed porch roof addition on the east side of the residence and encroach further into the required front yard along 1st Avenue NW is inconsistent with the limitations upon other properties.

Allowing the proposed uncovered, unenclosed deck with landing area and stairs higher than 4 feet on average to encroach further into the required side yard is also inconsistent with the spirit of the Land Use Code regulations of the area.

DECISION – VARIANCE:

The proposed variance to allow less than the required front yard is **CONDITIONALLY GRANTED.**

The proposed variance to allow less than the required side yard is **CONDITIONALLY GRANTED.**

The proposed variance to allow the expansion of a non conforming structure is **CONDITIONALLY GRANTED.**

CONDITIONS-VARIANCE:

1. Obtain necessary permits or permission from Seattle Department of Transportation (SDOT) prior to development on the proposal site if any structures (i.e. roof overhang) encroach into the NW 45th Street.
2. The owner is not allowed to construct the shed porch roof addition on the east side of the residence and encroach further into the required front yard along 1st Avenue NW.
3. The proposed roof overhang (eaves and gutter) cannot project more than 1 foot into the required front yard.
4. The owner is not allowed to construct the new deck with landing area and stairs into the required side yard along NW 45th Street. This addition must be no closer than 3 feet to the north property line along NW 45th Street.

Signature: _____ (signature on file) Date: August 28, 2003
Marie N. Kanikkeberg
Land Use Planner
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Land Use Services

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